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FITBIT, INC.

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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14
15 FITBUG LIMITED, a United Kingdom Limited
Liability Company,

16 Plaintiff,

17 v.

18 FITBIT, INC., a Delaware Corporation,

19 Defendant.

20 Case No.: 13-cv-01418-SC

21
22 **DEFENDANT FITBIT, INC.'S
ADMINISTRATIVE MOTION TO
FILE UNDER SEAL PORTIONS OF
ITS MOTION FOR ATTORNEYS'
FEES AND COSTS AND EXHIBITS**

23 Date: May 15, 2015
Time: 10:00 am
24 Judge: The Honorable Samuel Conti
Courtroom: 1, 17th Floor

25 FITBIT, INC., a Delaware Corporation,

26 Counter-Claimant,

27 v.

28 FITBUG LIMITED, a United Kingdom Limited
Liability Company,

Counter-Defendant.

Pursuant to Civil Local Rules 7-11(a) and 79-5, Defendant Fitbit, Inc. (“Fitbit”) hereby moves for administrative relief to file under seal the following documents:

- PORTIONS OF FITBIT INC.’S MOTION FOR ATTORNEYS’ FEES AND COSTS;**
- EXHIBITS 2-4 TO THE DECLARATION OF JEDEDIAH WAKEFIELD IN SUPPORT OF FITBIT INC.’S MOTION FOR ATTORNEYS’ FEES AND COSTS**

Fitbit requests leave to file under seal portions of its Motion for Attorneys’ Fees and Costs and the aforementioned Exhibits, as these documents fall into two main categories: (1) documents containing Fitbit’s non-public, highly confidential commercial information, specifically information relating to Fitbit’s non-public sales information, financial information, market research and human resources information; (2) documents that Plaintiff Fitbug Limited has designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY pursuant to the Stipulated Protective Order entered in this action (Dkt. No. 27). *See Declaration of Sean S. Wikner in Support of Fitbit, Inc.’s Administrative Motion to File Under Seal Portions of its Motion for Attorneys’ Fees and Costs and Exhibits (“Wikner Declaration”), at ¶¶ 2-7; see also Declaration of James Park in Support of Defendant Fitbit, Inc.’s Motion for Summary Judgment, Dkt. 46-6, at ¶ 59.*

The public disclosure of Fitbit’s non-public, highly confidential information would be harmful to Fitbit, as explained in the accompanying Wikner Declaration. Good cause therefore exists to seal these materials. *See Fed. R. Civ. P. 26(c); Sega Enters. v. Accolade, Inc.*, 977 F.2d 1510, 1532 (9th Cir. 1992) (Filing under seal is appropriate where good cause exists to limit disclosure of confidential information contained in the designated documents); *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1212 (9th Cir. 2002) (the court should consider the value of the information to the business or its competitors).

In addition, this Motion seeks to file under seal information that Plaintiff Fitbug has designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY under the Stipulated Protective Order (Dkt. No. 27), which requires Fitbit to seek to file such

1 material under seal. Certain materials designated by Plaintiff as CONFIDENTIAL or HIGHLY
2 CONFIDENTIAL ATTORNEYS' EYES ONLY contain Fitbit's non-public, highly confidential
3 information (e.g., the Expert Report and Rebuttal Expert Report of David Haas). Wikner Decl. ¶
4 5.

5 Concurrently herewith, Fitbit is publicly filing versions of its Motion for Attorneys' Fees
6 and Costs that redact this confidential information.
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8 Dated: March 9, 2015

FENWICK & WEST LLP

10 By: /s/ Jedediah Wakefield
11 Jedediah Wakefield

12 Attorneys for Defendant and Counter-Claimant
13 FITBIT, INC.
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